

MEMORANDUM

Agenda Item No. 4(H)

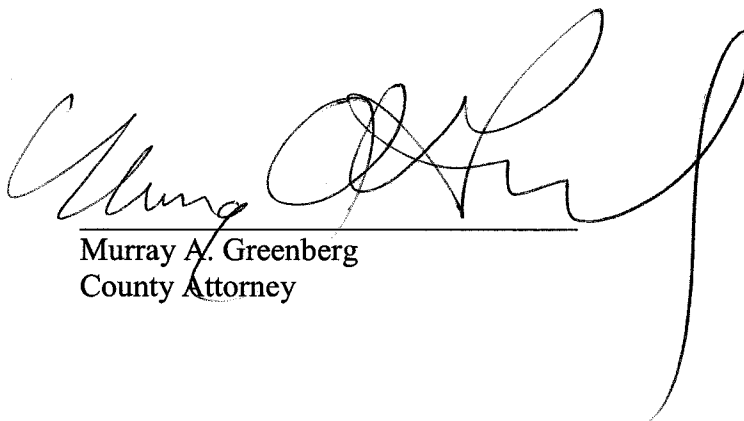
TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: January 25, 2007

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Ordinance amending
Sec. 2-94 of the Code and
establishing Sec. 2-95 to
require County Manager to
enter into a Mutual Aid
Agreement with the FDLE

The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Carlos A. Gimenez.



Murray A. Greenberg
County Attorney

MAG/bw



MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: January 25, 2007

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Agenda Item No. 4 (H)

Please note any items checked.

_____ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised

_____ 6 weeks required between first reading and public hearing

_____ 4 weeks notification to municipal officials required prior to public hearing

_____ Decreases revenues or increases expenditures without balancing budget

_____ Budget required

_____ Statement of fiscal impact required

_____ Bid waiver requiring County Manager's written recommendation

_____ Ordinance creating a new board requires detailed County Manager's report for public hearing

_____ Housekeeping item (no policy decision required)

_____ No committee review

Approved _____ Mayor

Agenda Item No. 4(H)

Veto _____

1-25-07

Override _____

ORDINANCE NO. _____

ORDINANCE AMENDING SECTION 2-94 OF THE CODE OF MIAMI-DADE COUNTY AND ESTABLISHING SECTION 2-95 OF THE CODE OF MIAMI-DADE COUNTY TO REQUIRE THE COUNTY MANAGER TO ENTER INTO A MUTUAL AID AGREEMENT WITH THE FLORIDA DEPARTMENT OF LAW ENFORCEMENT (FDLE) PURSUANT TO THE AUTHORITY CONFERRED BY THE FLORIDA MUTUAL AID ACT AND FURTHER PROVIDED THAT UPON EXECUTION OF SUCH MUTUAL AID AGREEMENT, THE MIAMI-DADE POLICE DEPARTMENT SHALL BE PROHIBITED FROM PROVIDING LAW ENFORCEMENT SERVICES IN PUBLIC CORRUPTION MATTERS INVOLVING MIAMI-DADE COUNTY OFFICERS AND EMPLOYEES AND SUCH SERVICES SHALL BE PROVIDED BY THE FDLE OR OTHER APPROPRIATE LAW ENFORCEMENT AGENCY PURSUANT TO A MUTUAL AID AGREEMENT; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

WHEREAS, the County has the authority to enter into mutual aid agreements for law enforcement services with other law enforcement agencies in the State of Florida pursuant to the Florida Mutual Aid Act, which is codified at Florida Statutes, Chapter 23, Part, 1; and

WHEREAS, public corruption strikes at the heart of our democratic form of government and undermines the integrity of public agencies; and

WHEREAS, the seriousness of law enforcement services involving public corruption issues requires that such services be performed with the highest integrity and transparency both in fact and appearance; and

WHEREAS, to ensure the integrity, in fact and appearance, of law enforcement services regarding public corruption matters involving County officers and employees, all law

enforcement services regarding public corruption matters involving County officers and employees shall be provided by the Florida Department of Law Enforcement and not the Miami-Dade Police Department,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. Section 2-94 of the Code of Miami-Dade County is hereby amended as follows:¹

Sec. 2-94. Consolidation of County departments.

The Miami-Dade Police Department shall be vested with sole and exclusive responsibility for performance of the powers, duties and functions hereinabove enumerated >>except as otherwise provided by Section 2-95 of the Code of Miami-Dade County<<.

Section 2. The Code of Miami Dade County is hereby amended to create Section 2-95 as follows:

>>Sec. 2-95. Law Enforcement Services in Public Corruption Cases

- (a) Upon the execution of a mutual aid agreement with the Florida Department of Law Enforcement ("FDLE") or other appropriate law enforcement agency in Florida as authorized herein, the Miami-Dade Police Department ("MDPD") is hereby prohibited from providing law enforcement services in public corruption matters involving County officers and employees;
- (b) "Public corruption" as used herein shall be defined to include (1) a "breach of the public trust" as defined in §112.312(3), Florida Statutes by a County officer or employee and (2) all of the crimes within the definition of "specified offense" set forth in §112.3173, Florida Statutes by a County officer and employee;
- (c) The term "County officer or employee" as used herein shall be defined as:

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

i any of the following persons as defined in Section 2-11.1 of the Code of Miami-Dade County: (1) “commissioners”, (2) “autonomous personnel”, (3) “quasi-judicial personnel”, (4) “advisory personnel”, (5) “departmental personnel”, and (5) “employees” and

ii the President, Board of Trustees and employees of the Public Health Trust of Miami-Dade County, Florida.

(d) The County Manager is hereby authorized and directed to negotiate and execute a mutual aid agreement with the FDLE or other appropriate law enforcement agency in Florida to provide all law enforcement services in public corruption matters involving County officers or employees.

(e) Upon the execution of a mutual aid agreement with the FDLE or other appropriate law enforcement agency in Florida as authorized herein, if MDPD is requested to provide law enforcement services in public corruption matters involving a County officer or employee or otherwise becomes aware of a possible public corruption matter involving a County officer or employee, MDPD shall refer such matter to the FDLE or other appropriate law enforcement agency in Florida pursuant to such mutual aid agreement.<<

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word “ordinance” may be changed to “section”, “article”, or other appropriate word.

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Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
To form and legal sufficiency:



Prepared by:



Lee Kraftchick

Sponsored by Commissioner Carlos A. Gimenez